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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Paul B. Prebilic
Group : 3738
Applicants : Thomas J. Bachinski et al.
Application No. : 09/406,575
Confirmation No. : 1763
Filing Date : September 24, 1999
For : MEDICAL GRAFTING CONNECTORS AND
FASTENERS

Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

DECLARATION OF DANIEL J. SULLIVAN
UNDER 37 C.F.R. § 1.132

I, Daniel J. Sullivan, hereby declare and state as follows:

1. I am one of the named co-inventors in the above-identified application ("the '575 application").
2. I am one of the named co-inventors in U.S. Patent Nos. 5,976,178 ("the '178 patent") and 6,206,912 ("the '912 patent").
3. The '575 application, the '178 patent, and the '912 patent share identical co-inventors (i.e., David S.

Goldsteen, Thomas J. Bachinski, Rudy Mazzocchi, and Daniel J. Sullivan).

4. The subject matter of the '178 patent and the '912 patent is incorporated by reference into the '575 application. See page 3, line 10 of the '575 application, which incorporates U.S. patent application No. 08/745,618 (now the '178 patent).

5. On information and belief, 35 U.S.C. § 102(e) states "[a] person shall be entitled to a patent unless the invention was described in . . . (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent." MPEP § 2136.04 states that "another" means a different inventive entity and that the "inventive entity is different if not all inventors are the same." Because the inventive entity is the same among the '575 application, the '178 patent, and the '912 patent, the '178 and '912 patents are not "by another" for purposes of 35 U.S.C. § 102(e).

6. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18, United States Code, and that willful false statements may jeopardize

the validity of this application and any patent issuing
therefrom.



Daniel J. Sullivan

Signed at PLUMMOUTH, MN
this 9 day of July 2004.